

## **Substance**

The EPA is in the process of updating the agency's 304(a) cadmium aquatic life ambient water quality criteria for final publication. These criteria provide scientifically sound recommendations to states for levels that are protective of aquatic communities. States may choose to adopt the 304(a) criteria or other scientifically defensible values in their water quality standards. The cadmium criteria revise acute and chronic freshwater and estuarine/marine values that were last updated in 2001. The updated criteria values are very similar to what they were in 2001. The EPA used the approach it routinely uses in developing aquatic life recommended criteria to develop the criteria, and added new toxicity data representing over 75 additional freshwater species.

The driver for updating the cadmium criteria was a lawsuit brought on by Northwest Environmental Advocates following the EPA's 2013 disapproval of Oregon's freshwater acute cadmium criterion. The EPA's disapproval triggered a CWA duty for the EPA to propose a replacement criterion for Oregon. The EPA would intend to use the updated criteria document as the scientific basis for the proposed rule. The agency is currently negotiating a settlement with the litigants in which the EPA would commit to propose cadmium criteria for Oregon by March 31, 2016, and take final rulemaking action by January 16, 2017. The 304(a) criteria being proposed are the basis for the rulemaking and, therefore, the document is time sensitive. We proposed the draft criteria for 60 days of public comment on December 1, 2015. The numbers presented in the final document have changed slightly from the draft as a result of adopting changes derived from the public comment period.

## **Ex. 5 - Deliberative Process**

the 2001 value, a draft Endangered Species Act analysis prepared by the EPA indicates that the updated freshwater **criterion** are expected to provide approximately 95 percent protection for endangered salmonids based on acute effects, a minimal effects level associated with the jeopardy opinion. It is likely, however, that the Services may still question these **criteria** as they expected our update to result in even more stringent values.

## **Process**

Office of Science and Technology partnered within the agency with Office of Research and Development to develop the document. The document was reviewed by the Office of Research and Development, Office of Chemical Safety and Pollution Prevention, and the Regions (3, 4, 5, 8, 9, and 10) and Office of Policy. The EPA conducted an external contractor-led letter peer review on the criteria document that was completed in 2015. The document was available for a 60-day public comment period which ended February 1, 2016.

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